

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA**

Defendants have noticed for hearing and decision a Motion for Summary Judgement or, in the alternative, Summary Adjudication of Issues. The matter was scheduled for hearing on May 29, 2007. Pursuant to Local Rule 78-230(c), Plaintiff was required to file either an opposition or a notice of non-opposition no later than May 15, 2007. Plaintiff failed to do so. Defendants filed a reply memorandum on May 21, 2007 requesting that their motion be granted in its entirety, and that Defendant not be heard at oral argument, pursuant to Local Rule 78-230.

Plaintiff has filed an *ex parte* application for an order continuing the hearing date for Defendants' motion, or in the alternative for an order to file a late brief in opposition to

1 Defendants' motion. According to Plaintiff's counsel, due to inexplicable technical error, he did  
2 not receive notice of Defendants' motion. In a declaration filed in support of Plaintiff's *ex parte*  
3 application, Plaintiff's counsel also states that due to a death in the family he did not review the  
4 docket during this time period. The Court sees no prejudice to Defendants and will grant  
5 Plaintiff's application to continue the hearing date.

6 Therefore, IT IS HEREBY ORDERED that Plaintiff's *ex parte* request to continue the  
7 hearing date is GRANTED. The hearing on Defendants' motion for summary judgment or, in  
8 the alternative, summary adjudication is continued to June 11, 2007. Plaintiff's opposition to  
9 Defendants' motion is due by 4:00 p.m. on May 25, 2007. Defendants' reply brief is due by 4:00  
10 p.m. on June 4, 2007.

11 IT IS SO ORDERED.

12 Dated: May 22, 2007

13 /s/ Anthony W. Ishii  
14 UNITED STATES DISTRICT JUDGE

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